IN THE HIGH COURT OF JUDICATURE OF
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR. JUSTICE GODA RAGHURAM
AND
THE HON'BLE MR. JUSTICE S.ANANDA REDDY

WRIT PETITION NO. 6787 OF 2002

Dated : JUNE 15, 2007

Between:

P.M.K. Kumari

Petitioner

AND

The Registrar (Administration),
A.P. High Court, Hyderabad, and others

Respondents

THE HON'BLE MR. JUSTICE GODA RAGHURAM
AND
THE HON'BLE MR. JUSTICE S.ANANDA REDDY

WRIT PETITION NO. 6787 OF 2002

ORAL ORDER: **(*per the Hon'ble Sri Justice Goda Raghuram*)**

The petitioner assails order of the first respondent dated 10.10.2001 in not considering her case for

promotion as U.D. Clerk by reckoning the date of regularisation of her service in the cadre of Copyist with effect from 2.2.1978 and reckoning her consequential promotion to the post of L.D. Clerk on consideration of her case for promotion as such with effect from 22.2.1983 notionally, in preference to her juniors who are alleged to have been promoted/appointed with effect from 1983 onwards. The petitioner also seeks a direction to the respondents to consider her case for promotion to the post of Junior Assistant with effect from 22.2.1983 “notionally with all consequential benefits including seniority and further promotion to the post of U.D. Clerk” in preference to her juniors.

The relief sought is complex and convoluted. According to the petitioner, she was initially appointed as Copyist on 2.2.1978 and her probation commenced thereat from 6.2.1978. She was declared an approved probationer with effect from 6.2.1980. She was eligible and qualified for promotion as L.D. Clerk or Typist (English or Telugu). During 1983, during currency of a ban on recruitment, some persons were appointed by direct recruitment as Clerks, Steno-Typists and Typists. Later by Orders of the Government in GO Ms. No.81 General Administration Department Dated 13.2.1986, a scheme for

regularization of persons appointed temporarily by direct recruitment during the ban period was issued. This was to benefit the persons so recruited during 6.3.1982 to 1.1.1986.

The petitoner was eventually promoted as a Junior Assistant on 29.4.1986. Thereafter she represented to the second respondent for restoration of seniority taking into account the date of her regularization of service as Copyist on 6.2.1978 and for consideration of her case for promotion, in preference to her juniors. That representation was rejected by the second respondent by the order dated 11.5.1988. Again, she preferred an appeal to the first respondent. By order dated 22.10.1990, the first respondent allowed the petitioner's appeal, as under:

> *"..The Appellant's probation in the category of Copyist was declared on 6.2.1980. As an approved probationer, she is entitled to be considered for promotion to the next higher category (Lower Division Clerk). Unfortunately, her claims were not considered. On the other hand, temporary promotions were given to certain persons (respondents who have now submitted their representations pursuant to the show cause notice issued by the High Court) although they were declared as approved probations in the lower cadres much later. She (the appellant) made a representation to the Dist. Judge as far as on 5.4.1985 and 4.5.1985, but no avail. Again another representation was made by her on 15.2.1988 which was rejected on 6.5.1988 by the District Judge inter alia, on the ground of delay. This view*

appears to be contrary to the record. The temporary promotion given to her on 20.4.1986 was only pursuant to her representation dated 4.5.1985. As an approved probationer, she is admittedly senior to the respondents and so she is entitled to be regularized and placed above them in the seniority list; but without any financial benefits. To this extent the appeal may be allowed.

Accordingly, the appeal of Smt. P.M.K. Kumari, is hereby allowed to the extent indicated above. The Dist. Judge, West Godavari, is hereby directed to issue consequential orders in this behalf and make necessary entries in the Service Record of the appellant and report compliance…."

Consequently, the second respondent by order dated 13.12.1990 regularised the services of the petitoner as L.D. Clerk, Principal Munsif Magistrate Court, Tanuku, with effect from 31.12.1985, the date from which the services of her juniors were regularized and determined her seniority above Sri A.Sivaranga Rao and directed necessary entries to be made in the Gradation List.

The petitioner was expecting a larger relief. According to her, the order of the second respondent dated 13.12.1990 did not duly implement the order of the first respondent dated 22.10.1990 allowing her appeal. According to the petitioner, in the category of L.D. Clerk, she ought to have been regularized from 7.2.1983. The pleading in paragraph 4 of the writ petition on this aspect is wooly. According to the petitioner:

> *"But the District Judge has issued consequential orders dated 13.12.1990, erroneously regularized my services with effect from 31.12.1985 instead of I7.2.1983 because by 6.2.1980 itself I was an approved probationer and I should have been considered for promotion on the post of Junior Assistant and my seniority ought to have been reckoned on that day onwards over and above the unofficial respondents herein…"*

The petitioner fails to plead or state before this Court as to how her regularization in the cadre of Copyists entitles her to promotion, as a matter of right by 7.2.1983. It would appear that there was direct temporary recruitment to the post of Junior Assistant during 1983, on account of the ban. The services of such persons were regularized by order of the State Government in GO Ms. No. 81 dated 13.2.1986. Even after the second respondent's consequential order dated 13.12.1990, the petitoner was content with regard to her grievance upto her regularization in the post of L.D. Clerk. In the year 2000, the petitoner was called for an interview for promotion to U.D. Clerks. At the interview, she appears to have urged her grievance with regard to the order of the petitioners regularization as determined in the second respondent's order dated 13.12.1990. This was rejected by the second respondent by the order dated 25.7.2000,

stating that her claim was already considered by the High Court in the appeal and orders dated 22.10.1990 were issued. She, thereafter, preferred an appeal to the first respondent, which has not yet been considered, is the grievance.

As apparent from the first respondent's order allowing the petitioner's appeal (dated 22.10.1990), the petitioner's representation for seniority was considered only in the context that certain persons junior to the petitioner in the category of Copyist, were temporarily promoted as Junior Assistants but were shown above the petitioner. In this limited context, the petitioner's case was considered and the first respondent issued notice only to those persons who were appointed as Junior Assistants by promotion from lower categories. The first respondent has granted relief only in such factual context. The first respondent in the order observed: *"as an approved probationer, she is admittedly senior to the respondents and so she is entitled to be regularized and placed above them in the seniority list; but without any financial benefits. To this extent the appeal may be allowed"*.

The first respondent did not grant the petitioner any general relief of seniority and regularization over all persons appointed to the post of L.D. Clerk including by

direct recruitment. The petitioner's grievance was considered in the context of her claim that the persons, whose probation was approved subsequent to her in the lower cadres, were benefited by earlier promotions to the post of L.D. Clerk. The petitioner is seen (from the record), never to have urged any specific grievance nor claimed any seniority or regularization over persons directly recruited, nor was her claim considered in such a context by the first respondent. As is apparent from her several representations to the second and first respondents, the petitioner continued to improve upon her claims over a period of time. In this writ petition, the petitioner seeks seniority over the persons directly recruited during the ban period in the year 1983, a claim not specifically urged earlier. This writ petition is filed in the year 2002. Nineteen years delay is an extravagant delay and constitutes laches.

On the above said analysis, there are no merits in the writ petition. Consequently, the writ petition fails and is accordingly dismissed. No order as to costs.

Goda Raghuram, J.

S.Ananda Reddy, J.

June 15, 2007
MAS